

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #10	CCRB Case #: 201701656	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 02/28/2017 4:30 PM	Location of Incident: [REDACTED]	Precinct: 46	18 Mo. SOL 8/28/2018	EO SOL 8/28/2018	
Date/Time CV Reported Wed, 03/01/2017 7:29 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 03/01/2017 7:29 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Mahon	26892	955116	052 PCT
2. LT Daniel Campbell	00000	932403	052 PCT
3. POM Joel Ayala	08262	954509	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Daniel Campbell	Abuse: Lieutenant Daniel Campbell stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	[REDACTED]
B.POM Brian Mahon	Abuse: Police Officer Brian Mahon stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	[REDACTED]
C.POM Joel Ayala	Abuse: Police Officer Joel Ayala stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	[REDACTED]
D.POM Brian Mahon	Abuse: Police Officer Brian Mahon refused to provide his shield number to § 87(2)(b)	[REDACTED]
E.POM Joel Ayala	Abuse: Police Officer Joel Ayala refused to provide his shield number to § 87(2)(b)	[REDACTED]
F.POM Joel Ayala	Abuse: Police Officer Joel Ayala frisked § 87(2)(b) and § 87(2)(b)	[REDACTED]
G.POM Joel Ayala	Abuse: Police Officer Joel Ayala searched § 87(2)(b)	[REDACTED]
H.LT Daniel Campbell	Abuse: Lieutenant Daniel Campbell frisked § 87(2)(b)	[REDACTED]
I.LT Daniel Campbell	Abuse: Lieutenant Daniel Campbell searched § 87(2)(b)	[REDACTED]
J.LT Daniel Campbell	Abuse: Lieutenant Daniel Campbell searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	[REDACTED]
K.POM Brian Mahon	Abuse: Police Officer Brian Mahon searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
L.POM Joel Ayala	Abuse: Police Officer Joel Ayala searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
M.LT Daniel Campbell	Abuse: Lieutenant Daniel Campbell entered and searched § 87(2)(b) in the Bronx.	
N.POM Brian Mahon	Abuse: Police Officer Brian Mahon entered and searched § 87(2)(b) in the Bronx.	
O.POM Joel Ayala	Abuse: Police Officer Joel Ayala entered and searched § 87(2)(b) in the Bronx.	

Case Summary

On March 1, 2017, § 87(2)(b) filed this complaint with the CCRB via telephone on behalf of himself, his cousin, § 87(2)(b) and his grandmother, § 87(2)(b).

At approximately 4:30 p.m. on February 28, 2017, § 87(2)(b) was driving with § 87(2)(b) and § 87(2)(b). They were then pulled over at § 87(2)(b) in the Bronx by Lt. Daniel Campbell, PO Brian Mahon and PO Joel Ayala of the 52nd Precinct (**Allegations A, B and C**). The officers exited their vehicle and approached § 87(2)(b) vehicle on foot. They did not have their shields displayed. § 87(2)(b) asked the officers to display their shields. None of the officers responded to his request or displayed their shields (**Allegations D and E**). The officers then ordered the three occupants to exit the vehicle. When they stepped out, PO Ayala frisked and searched § 87(2)(b) and frisked § 87(2)(b) (**Allegations F and G**). Lt. Campbell also frisked and searched § 87(2)(b) (**Allegations H and I**). The three officers then searched § 87(2)(b) vehicle (**Allegations J, K and L**). A single bullet was retrieved from inside of the vehicle.

§ 87(2)(b) and § 87(2)(b) were arrested for § 87(2)(b), § 87(2)(a) 160.50. They were transported to the 52nd Precinct stationhouse and lodged in the holding cells. Lt. Campbell, PO Mahon and PO Ayala then traveled to § 87(2)(b)'s apartment, located at § 87(2)(b) § 87(2)(b) in the Bronx. The three officers entered and searched the interior of the apartment (**Allegations M, N and O**). Nothing was found in the apartment. The officers subsequently returned to the stationhouse and voided § 87(2)(b) and § 87(2)(b)'s arrests.

This case includes video footage that was obtained from a gas station located at 2344 Jerome Avenue. The footage has been attached in IAs #13-16 (See Board Review #01-04: Video Footage) and the transcription of the footage can be found in IA #20 (See Board Review #05: Video Transcription). Due to the length of this footage, SnagIt captures depicting specific actions taken during the incident have been attached below.

This case is 117 days old as of June 28, 2017. The case was delayed due to difficulties in contacting all of the civilians and identifying the specific subject officers.

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation, stating that he did not want to see the subject officers again.
- A Notice of Claim request was submitted to the NYC Comptroller's Office on June 22, 2017. It will be included in the case file upon receipt.
- A June 23, 2016 search of the OCA database found no previous convictions for § 87(2)(b) (See Board Review #06: Civilian Conviction Histories).
- § 87(2)(b)

■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]

- § 87(2)(b) [REDACTED]
- [REDACTED]
- § 87(2)(b) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by or involving § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- Lt. Campbell has been a member of the service for thirteen years and there are two substantiated CCRB allegations against him.
 - In case #200607138, a threat of arrest allegation was substantiated against him. The CCRB recommended that he receive a command discipline, but the NYPD recommended that no disciplinary action be taken.
 - In case #201004296, a frisk allegation was substantiated against him. The CCRB recommended that he receive charges. The NYPD issued him a command discipline.
 - Lt. Campbell has been the subject of 58 allegations in 23 cases.
 - He has been the subject of six previous vehicle stop allegations. Three were closed as complainant uncooperative, one was closed as exonerated, and two are still under investigation.
 - He has been the subject of five previous frisk allegations. One was closed as substantiated, two were closed as complainant uncooperative, one was closed as victim uncooperative, and one is still under investigation.
 - He has been the subject of five previous search allegations. One was exonerated, one was unsubstantiated, two were closed as complainant uncooperative and one was closed as complainant unavailable
 - He has been the subject of three previous vehicle search allegations. All three were closed as complainant uncooperative.
- PO Mahon has been a member of the service for three years and there are no substantiated CCRB allegations against him. He has been the subject of two previous allegations in one case. These allegations, for a vehicle stop and a search, were closed as complainant uncooperative.

- PO Ayala has been a member of the service for three years and there is one substantiated CCRB allegation against him.
 - In case #201605007, a stop allegation was substantiated against him. The CCRB recommended that he receive a command discipline. The NYPD has not yet determined its disposition.
 - PO Ayala has been the subject of 25 allegations in eight cases.
 - He has been the subject of five previous vehicle stop allegations. One was closed as exonerated, three were closed as unsubstantiated, and one is still under investigation.

Attempts to Contact Civilians

- § 87(2)(b) provided § 87(2)(b)'s telephone number and address during his initial complaint. On March 9, 2017, a first call was made to § 87(2)(b). A message was left with § 87(2)(b) who at the time had not yet been identified to the investigation as a victim. A first please-call letter was also mailed to § 87(2)(b) on that date. Later that day, § 87(2)(b) called and scheduled an interview for March 10, 2017. He did not appear for this interview, and did not call ahead to cancel or reschedule. A missed appointment letter was mailed to § 87(2)(b) on March 13, 2017. Between March 13, 2017 and April 10, 2017, four additional calls were made to § 87(2)(b). Messages were left for § 87(2)(b) with § 87(2)(b) on the first three calls. A voicemail was left on the final call, stating that no further contact attempts would be made to § 87(2)(b). A final please-call letter was mailed to § 87(2)(b) on March 29, 2017. None of the letters sent to § 87(2)(b) were returned to the CCRB by the US Postal Service. To date, § 87(2)(b) has not responded to these contact attempts. A June 21, 2017 search of the NYC Department of Correction's online inmate database found that § 87(2)(b) is not currently incarcerated.
- As noted above, § 87(2)(b) did not initially provide § 87(2)(b)'s name or contact information. The undersigned investigator spoke to her several times while attempting to contact § 87(2)(b). Since she had not been identified as a victim at that time, § 87(2)(b) was not asked to provide a statement regarding the incident. During a telephone call on March 20, 2017, however, § 87(2)(b) explained that § 87(2)(b) was his grandmother, and that she shared an address and telephone number with § 87(2)(b). During a subsequent call to § 87(2)(b) on March 20, 2017, § 87(2)(b) confirmed that she was involved in the incident. While § 87(2)(b) agreed to take a message for § 87(2)(b), she declined to provide a statement, stating that she had no interest in participating in a CCRB investigation. § 87(2)(b) was provided with the agency's contact information and was advised to reach out if she decided to participate in the future.

Findings and Recommendations

Allegations Not Pleaded

- **Abuse of Authority – Refusal to Provide Shield Number:** § 87(2)(b) alleged that he asked all of the officers, including Lt. Campbell, to display their shields to him. Lt. Campbell did not display his shield. Given his rank, Lt. Campbell does not have a shield

number. Since he consequently could not display a shield number to § 87(2)(b) a refusal to provide shield number allegation has not been pleaded against him.

- **Abuse of Authority – Premises Entered and/or Searched:** § 87(2)(b) alleged that after he was released from custody, § 87(2)(b) informed him that the officers who had searched § 87(2)(b)'s apartment also searched an apartment belonging to § 87(2)(b)'s girlfriend. § 87(2)(b) did not know this individual's name or address. § 87(2)(b) himself did not provide a statement to the CCRB. All three officers denied searching any locations besides § 87(2)(b)'s apartment. Since the investigation was unable to identify the location that was searched or obtain sworn testimony regarding the officers' actions there, an entry allegation has not been pleaded in regards.

Allegation A – Abuse of Authority: Lieutenant Daniel Campbell stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation B – Abuse of Authority: Police Officer Brian Mahon stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation C – Abuse of Authority: Police Officer Joel Ayala stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that § 87(2)(b) and § 87(2)(b) were pulled over at a gas station located at § 87(2)(b) in the Bronx. The video footage from the gas station does not show the actions of § 87(2)(b) or his vehicle before he pulled into the station.

§ 87(2)(b) was interviewed at the CCRB on March 23, 2017 (See Board Review #08: § 87(2)(b) Statement). He denied that he had committed any vehicular infractions of any kind before his vehicle was pulled over by the police. § 87(2)(b) asked PO Ayala why he had been pulled over, but PO Ayala did not respond to this question. § 87(2)(b) was ultimately arrested for § 87(2)(b), § 87(2)(a) 160.50, but this arrest was voided. He was never charged with any other offenses or issued any summonses.

PO Mahon was interviewed at the CCRB on May 9, 2017. PO Ayala was interviewed at the CCRB on June 6, 2017. Lt. Campbell was interviewed at the CCRB on June 14, 2017 (See Board Review #09-11: MOS Statements). All three officers stated that § 87(2)(b) vehicle was pulled over after they observed him turn his vehicle onto § 87(2)(b) without using his turn signal. All three stated that they observed the infraction themselves. None recalled any discussion amongst themselves about their intended course of action before the vehicle stop was initiated. The officers all stated that they pulled § 87(2)(b) over because of this observed infraction. No other factors contributed to the officers' decision to pull § 87(2)(b) over. The officers would later arrest § 87(2)(b) for criminal possession of a weapon after discovering a bullet in his vehicle. § 87(2)(b) was not charged for failing to signal his turn. The officers all stated that they exercised their discretion not to issue § 87(2)(b) a summons for this offense since he had already been arrested for a more serious offense.

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Abuse of Authority: Police Officer Brian Mahon refused to provide his shield number to § 87(2)(b)

Allegation E – Abuse of Authority: Police Officer Joel Ayala refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) alleged that none of the officers had their shields displayed when they approached his vehicle. § 87(2)(b) asked all three of them to display their shields. None of them made any response or displayed their shields. § 87(2)(b) then asked all three officers what precinct they were from. All three officers told § 87(2)(b) that they were from “all over.”

None of the officers interviewed recalled § 87(2)(b) or any of the other civilians asking them to display their shields or identify their command.

§ 87(2)(g)

Allegation F – Abuse of Authority: Police Officer Joel Ayala frisked § 87(2)(b) and § 87(2)(b)

It is undisputed that § 87(2)(b) and § 87(2)(b) were frisked after they exited the SUV. Nothing was removed from either of their persons during these frisks. Both of their frisks were captured on the gas station’s cameras. These portions have been included below (Board Review #12-13: SnagIt Captures).



201701656 - § 87(2)(b) SnagIt 1.mp4



201701656 - § 87(2)(b) SnagIt 2.mp4

§ 87(2)(b) stated that at the time of the vehicle stop, he kept several fanta leaves, which he described as large brown leaves used to roll cigarettes, in a clear plastic sandwich bag. The bag was in turn stored inside of a pocket located on the back of the SUV’s driver’s seat. He denied that there were any bullets inside of the bag. After § 87(2)(b) stepped out of the vehicle, PO Ayala frisked him by patting his armpits and the pockets on his shorts. Based upon the video, the investigation identified the officer who frisked § 87(2)(b) as PO Ayala. Later in the incident, after § 87(2)(b) and § 87(2)(b) were frisked, PO Ayala removed the bag from inside of the pocket. He informed § 87(2)(b) that he had found a bullet inside of the bag. § 87(2)(b) did not see the bullet himself at any point.

All three officers confirmed that § 87(2)(b) and § 87(2)(b) were frisked after they exited the SUV. All three stated that the frisks were performed to check § 87(2)(b) and § 87(2)(b) for weapons. PO Mahon and PO Ayala both stated that when they approached the driver’s side of the SUV at the start of the incident, they observed a single bullet in the back seat of the SUV while they stood on the driver’s side. PO Mahon stated that the bullet was in a clear plastic bag on the

floor of the back seat. There was also a piece of black cloth in the bag along with the bullet. PO Ayala did not recall where the bullet was in the back seat, and did not recall if it was in a bag, but stated that the bullet was in plain view. Lt. Campbell did not see the bullet himself at first, and was informed of it after the three civilians were removed from inside of the vehicle. The presence of the bullet caused the officers to suspect that the civilians were concealing a gun somewhere inside of the vehicle. No other factors contributed to their suspicion.

PO Ayala did not recall which civilian he frisked, but stated that he did frisk at least one of the civilians. He recalled frisking at least one civilian's waistband, but did not recall frisking a civilian's torso. PO Mahon stated that after § 87(2)(b) exited the vehicle, he escorted § 87(2)(b) to the rear of the vehicle himself and frisked him there. He did not recall any other officers frisking § 87(2)(b) at any other point. He did not recall who frisked § 87(2)(b). Lt. Campbell did not recall which officer frisked which civilian, or what areas on the civilians' bodies were frisked.

The gas station video showed that an officer wearing a white shirt who had spoken to § 87(2)(b) at the driver's window later frisked § 87(2)(b) as he stood on the SUV's driver's side. When § 87(2)(b) and § 87(2)(b) exited the vehicle, this same officer is seen frisking both of them. All three officers, when shown the gas station video, identified the officer in the white shirt as PO Ayala. The camera's view of § 87(2)(b) body during his frisk is obscured by PO Ayala's body, and the view of § 87(2)(b)'s body during his frisk is obscured by the SUV. Despite this obstruction, PO Ayala can be seen patting his hands on both of their bodies, including their torsos and legs.

§ 87(2)(b) and § 87(2)(b)'s arrests were voided after they were transported to the 52nd Precinct stationhouse (See Board Review #14: Command Log). No property vouchers were prepared in regards to either arrest.

The discovery of bullets inside of a vehicle provides an officer with a reasonable suspicion to believe that the occupants of the vehicle possess a firearm. He or she would then possess sufficient legal justification to remove the occupants from the vehicle and frisk them to check them for weapons. People v. Carvey, 89 N.Y.2d 707 (1997) (See Board Review #15: Legal Reference).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

Allegation G – Abuse of Authority: Police Officer Joel Ayala searched § 87(2)(b)

§ 87(2)(b) alleged that after he was frisked, PO Ayala went on to reach inside of his shorts. § 87(2)(b) did not recall if PO Ayala's hand was inside of his underwear, or was between his underwear and his shorts. While his hand was inside of § 87(2)(b) shorts, PO Ayala patted § 87(2)(b) genitals and buttocks. Nothing was removed from § 87(2)(b) person.

While all three officers stated that § 87(2)(b) was frisked, all of them denied that § 87(2)(b) or any of the other civilians were subsequently searched. They all denied that PO Ayala or any other officer reached into § 87(2)(b) shorts or made contact with his genitals or buttocks.

It is unclear in the gas station video whether PO Ayala reaches into § 87(2)(b) pants. As seen in the SnagIt footage above, PO Ayala stood behind § 87(2)(b) when he frisked him, placing himself between § 87(2)(b) and the camera. PO Ayala's body obstructs the camera's view of § 87(2)(b) body, making the specific type of contact that PO Ayala made with § 87(2)(b) unclear.

§ 87(2)(g)

Allegation H – Abuse of Authority: Lieutenant Daniel Campbell frisked § 87(2)(b)

Allegation I – Abuse of Authority: Lieutenant Daniel Campbell searched § 87(2)(b)

§ 87(2)(b) alleged that after PO Ayala frisked and searched him, Lt. Campbell immediately walked up behind him and conducted identical frisks and searches of him. These frisks and searches covered the exact same areas as those conducted by PO Ayala, and included Lt. Campbell reaching into § 87(2)(b) shorts. Nothing was found on § 87(2)(b) person by Lt. Campbell's frisk or search. Lt. Campbell walked § 87(2)(b) from the driver's side of the SUV to the rear after his search.

Lt. Campbell and PO Ayala did not recall which specific officer frisked which specific civilians. Lt. Campbell himself did not recall if he frisked any of the civilians. All of the officers denied that any of the civilians were searched. PO Mahon stated that he was the only officer that he recalled frisking § 87(2)(b)

As seen in the SnagIt captures above, PO Ayala was the only officer seen frisking § 87(2)(b) or § 87(2)(b) on the gas station video. After PO Ayala frisked § 87(2)(b) he was escorted to the rear of the vehicle. Neither Lt. Campbell nor PO Mahon examine or make contact with § 87(2)(b) before he is taken to the rear of the vehicle. No further frisks or searches are noted on the video.





§ 87(2)(g)

Allegation J – Abuse of Authority: Lieutenant Daniel Campbell searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation K – Abuse of Authority: Police Officer Brian Mahon searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation L- Abuse of Authority: Police Officer Joel Ayala searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that after the three occupants were removed from the SUV, the police entered and searched the vehicle. This search included the passenger compartment, the trunk, and the engine block. The gas station video footage shows that all three officers searched the SUV over the course of approximately ten minutes. SnagIt captures showing each of the officers entering various areas of the vehicle, including the trunk and the engine block, have been included below (See Board Review #16-19: SnagIt Captures).

 201701656 - § 87(2)(b) SnagIt 6.mp4	 201701656 - § 87(2)(b) SnagIt 3.mp4
 201701656 - § 87(2)(b) SnagIt.mp4	 201701656 - § 87(2)(b) SnagIt 5.mp4

As mentioned earlier, § 87(2)(b) stated that the bag that the bullet was allegedly recovered from was stored in a pocket on the back of the driver's seat. He denied that the bag had contained a bullet initially. After § 87(2)(b) and the other occupants were removed from the vehicle, PO Mahon and PO Ayala searched the SUV's passenger compartment. § 87(2)(b) did not see which areas they entered. He did not see them remove any items from the vehicle at that time. The three civilians were then allowed to get back into the SUV. After doing so, PO Mahon and PO Ayala continued to search the vehicle. They again searched the passenger compartment, as well as the trunk and the engine block. While the civilians were in the SUV, PO Ayala reached into the pocket on the back of the driver's seat and produced the bag containing the fanta leaves. PO Ayala told § 87(2)(b) that he found a bullet inside of the bag. § 87(2)(b) did not see the bullet himself. He denied that there had been a bullet in the bag previously. § 87(2)(b) did not see the officers remove anything else from inside of the vehicle. § 87(2)(b) made no mention of there being marijuana or a scent of marijuana in the SUV. He also made no mention of himself or the other civilians offering consent to search the vehicle.

All three officers stated that the bullet had been observed by the officers on the driver's side of the SUV shortly after the officers approached the vehicle. It was initially left in place while the civilians were removed from the vehicle. All three officers stated that the SUV was searched after the passengers were removed. They stated that the search was conducted to check the vehicle for weapons. They suspected that the vehicle contained weapons based solely on the presence of the bullet. PO Ayala also stated that the vehicle was searched for marijuana, as he had detected an odor of burning marijuana when he first approached the vehicle. None of the other officers

mentioned any suspicion that there was marijuana inside of the SUV at any point. Lt. Campbell also stated that § 87(2)(b) and § 87(2)(b) suggested that the officers search their vehicle to prove that they did not have any weapons inside. None of the other officers mentioned the civilians giving the officers permission to search the vehicle.

All three officers confirmed that they participated in the search by searching at least one section of the vehicle. While PO Ayala did not recall the full extent of the search, PO Mahon and Lt. Campbell both stated that the entire vehicle was searched, including the trunk and engine block. Both PO Mahon and Lt. Campbell denied that there were any parts of the vehicle that they avoided searching. PO Ayala did not recall if the officers avoided searching any parts of the vehicle.

Pursuant to the automobile exception to the warrant requirement, a warrantless search of a vehicle is permitted when the police have probable cause to believe the vehicle contains contraband, a weapon, or evidence of a crime. The observation of ammunition within a vehicle search provides a police officer with probable cause to believe that there is a firearm inside of the vehicle. People v. Johnson, 253 A.D.2d 677 (App. Term, 1st Dept., 1998) (See Board Review #20: Legal Reference).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation M – Abuse of Authority: Lieutenant Daniel Campbell entered and searched § 87(2)(b) in the Bronx.

Allegation N – Abuse of Authority: Police Officer Brian Mahon entered and searched § 87(2)(b) in the Bronx.

Allegation O- Abuse of Authority: Police Officer Joel Ayala entered and searched § 87(2)(b) in the Bronx.

It is undisputed that § 87(2)(b) signed a consent to search form that allowed the police to search her home at § 87(2)(b) in the Bronx. It is also undisputed that after § 87(2)(b) and § 87(2)(b) were taken into custody and lodged in the holding cells at the 52nd Precinct stationhouse, Lt. Campbell, PO Mahon and PO Ayala accompanied § 87(2)(b) back to the apartment and searched its interior.

§ 87(2)(b) stated that after the officers completed their search of the interior of the SUV, they handed § 87(2)(b) a form. They did not explain to her what the form was for. The officers informed § 87(2)(b) that if she signed the form, then they would release § 87(2)(b) and § 87(2)(b) from custody. § 87(2)(b) then signed the form. § 87(2)(b) did not review the form himself at any point. § 87(2)(b) was lodged in a holding cell at the stationhouse at the time of the search. As such, he did not witness the search himself. He did not see how the officers gained access to the apartment, or what they did once they were inside. § 87(2)(b) informed § 87(2)(b) of the search after his release, but she did not describe their actions at the apartment in any detail.

As discussed above, § 87(2)(b) herself declined to provide a statement to the CCRB regarding the incident.

Lt. Campbell, PO Mahon and PO Ayala all stated that the civilians suggested to them that they search § 87(2)(b)'s apartment as a way of proving that they did not possess any firearms. Lt. Campbell and PO Ayala stated that § 87(2)(b) herself offered to let the officers search her apartment. PO Mahon at first stated that the idea was first proposed by § 87(2)(b) and § 87(2)(b) but he later stated as well that § 87(2)(b) suggested the search. The officers denied that § 87(2)(b) was told that § 87(2)(b) or § 87(2)(b) would be released or would not be arrested at all if she signed the form.

All three officers stated that § 87(2)(b) accompanied them to the apartment and admitted them inside voluntarily. § 87(2)(b) then showed them around the apartment. The officers conducted a visual search of the apartment, but did not conduct a thorough search, as the apartment was extremely cluttered. The officers then left the location without removing anything.

Absent a search warrant, an officer may enter into and search a private residence if a resident voluntarily consents to the search. Consent is voluntary only when it is an act of free will and unconstrained choice. Consent, when given after the threat of prosecution, cannot be considered to be voluntary. People v. Driscoll, 87 A.D.2d 996 (App. Term, 4th Dept., 1982) (See Board Review #21: Legal Reference).

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]

Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date